

CENTER FOR DISABILITY ACCESS  
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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

**Scott Johnson**

Plaintiff,

v.

**Natwarlal M. Panchal;**  
**Gita N. Panchal;**  
**First Maganson Holdings, Inc.,** a  
California Corporation

Defendants.

**Case No.**

**Complaint For Damages And  
Injunctive Relief For Violations  
Of: Americans With Disabilities  
Act; Unruh Civil Rights Act**

Plaintiff Scott Johnson complains of Natwarlal M. Panchal; Gita N. Panchal; First Maganson Holdings, Inc., a California Corporation; and alleges as follows:

**PARTIES:**

1. Plaintiff is a California resident with physical disabilities. Plaintiff is a level C-5 quadriplegic. He cannot walk and also has significant manual dexterity impairments. He uses a wheelchair for mobility and has a specially equipped van.

2. Defendants Natwarlal M. Panchal and Gita N. Panchal owned the real property located at or about 3382 Monterey Rd, San Jose, California, in July

1 2020 and August 2020.

2 3. Defendants Natwarlal M. Panchal and Gita N. Panchal own the real  
3 property located at or about 3382 Monterey Rd, San Jose, California,  
4 currently.

5 4. Defendant First Maganson Holdings, Inc. owned Capitol Hill Inn  
6 located at or about 3382 Monterey Rd, San Jose, California, in July 2020 and  
7 August 2020.

8 5. Defendant First Maganson Holdings, Inc. owns Capitol Hill Inn  
9 (“Motel”) located at or about 3382 Monterey Rd, San Jose, California,  
10 currently.

11 6. Plaintiff does not know the true names of Defendants, their business  
12 capacities, their ownership connection to the property and business, or their  
13 relative responsibilities in causing the access violations herein complained of,  
14 and alleges a joint venture and common enterprise by all such Defendants.  
15 Plaintiff is informed and believes that each of the Defendants herein is  
16 responsible in some capacity for the events herein alleged, or is a necessary  
17 party for obtaining appropriate relief. Plaintiff will seek leave to amend when  
18 the true names, capacities, connections, and responsibilities of the Defendants  
19 are ascertained.

20  
21 **JURISDICTION & VENUE:**

22 7. The Court has subject matter jurisdiction over the action pursuant to 28  
23 U.S.C. § 1331 and § 1343(a)(3) & (a)(4) for violations of the Americans with  
24 Disabilities Act of 1990, 42 U.S.C. § 12101, et seq.

25 8. Pursuant to supplemental jurisdiction, an attendant and related cause  
26 of action, arising from the same nucleus of operative facts and arising out of  
27 the same transactions, is also brought under California’s Unruh Civil Rights  
28 Act, which act expressly incorporates the Americans with Disabilities Act.

1       9. Venue is proper in this court pursuant to 28 U.S.C. § 1391(b) and is  
2 founded on the fact that the real property which is the subject of this action is  
3 located in this district and that Plaintiff's cause of action arose in this district.  
4

5       **FACTUAL ALLEGATIONS:**

6       10. Plaintiff went to the Motel in July 2020 and August 2020 with the  
7 intention to avail himself of its goods or services motivated in part to  
8 determine if the defendants comply with the disability access laws.

9       11. The Motel is a facility open to the public, a place of public  
10 accommodation, and a business establishment.

11       12. Unfortunately, on the dates of the plaintiff's visits, the defendants failed  
12 to provide wheelchair accessible paths of travel in conformance with the ADA  
13 Standards as it relates to wheelchair users like the plaintiff.

14       13. The Motel provides paths of travel to its customers but fails to provide  
15 wheelchair accessible paths of travel.

16       14. The problem that plaintiff encountered is that there are unramped steps  
17 to the lobby entrance and night window counter.

18       15. Plaintiff believes that there are other features of the paths of travel that  
19 likely fail to comply with the ADA Standards and seeks to have fully compliant  
20 paths of travel available for wheelchair users.

21       16. On information and belief the defendants currently fail to provide  
22 wheelchair accessible paths of travel.

23       17. Additionally, on the dates of the plaintiff's visits, the defendants failed  
24 to provide wheelchair accessible parking in conformance with the ADA  
25 Standards as it relates to wheelchair users like the plaintiff.

26       18. The Motel provides parking to its customers but fails to provide  
27 wheelchair accessible parking.

28       19. A couple of problems encountered by the plaintiff is that there were not

1 enough parking spaces for wheelchair users in the parking lot. What is more,  
2 there were white diagonal lines that did not have a "NO PARKING" warning  
3 in the access aisle.

4 20. Plaintiff believes that there are other features of the parking that likely  
5 fail to comply with the ADA Standards and seeks to have fully compliant  
6 parking available for wheelchair users.

7 21. On information and belief the defendants currently fail to provide  
8 wheelchair accessible parking.

9 22. These barriers relate to and impact the plaintiff's disability. Plaintiff  
10 personally encountered these barriers.

11 23. As a wheelchair user, the plaintiff benefits from and is entitled to use  
12 wheelchair accessible facilities. By failing to provide accessible facilities, the  
13 defendants denied the plaintiff full and equal access.

14 24. The failure to provide accessible facilities created difficulty and  
15 discomfort for the Plaintiff.

16 25. Even though the plaintiff did not confront the following barriers, door  
17 hardware at the lobby entrance has a pull bar style handle that requires tight  
18 grasping to operate. Additionally, the night window counter is too high and  
19 there is no lowered portion of the counter. Plaintiff seeks to have these barriers  
20 removed as they relate to and impact his disability.

21 26. The defendants have failed to maintain in working and useable  
22 conditions those features required to provide ready access to persons with  
23 disabilities.

24 27. The barriers identified above are easily removed without much  
25 difficulty or expense. They are the types of barriers identified by the  
26 Department of Justice as presumably readily achievable to remove and, in fact,  
27 these barriers are readily achievable to remove. Moreover, there are numerous  
28 alternative accommodations that could be made to provide a greater level of

1 access if complete removal were not achievable.

2 28. Plaintiff will return to the Motel to avail himself of its goods and to  
3 determine compliance with the disability access laws once it is represented to  
4 him that the Motel and its facilities are accessible. Plaintiff is currently  
5 deterred from doing so because of his knowledge of the existing barriers and  
6 his uncertainty about the existence of yet other barriers on the site. If the  
7 barriers are not removed, the plaintiff will face unlawful and discriminatory  
8 barriers again.

9 29. Given the obvious and blatant nature of the barriers and violations  
10 alleged herein, the plaintiff alleges, on information and belief, that there are  
11 other violations and barriers on the site that relate to his disability. Plaintiff will  
12 amend the complaint, to provide proper notice regarding the scope of this  
13 lawsuit, once he conducts a site inspection. However, please be on notice that  
14 the plaintiff seeks to have all barriers related to his disability remedied. See  
15 *Doran v. 7-11*, 524 F.3d 1034 (9th Cir. 2008) (holding that once a plaintiff  
16 encounters one barrier at a site, he can sue to have all barriers that relate to his  
17 disability removed regardless of whether he personally encountered them).

18  
19 **I. FIRST CAUSE OF ACTION: VIOLATION OF THE AMERICANS**  
20 **WITH DISABILITIES ACT OF 1990** (On behalf of Plaintiff and against all  
21 Defendants.) (42 U.S.C. section 12101, et seq.)

22 30. Plaintiff re-pleads and incorporates by reference, as if fully set forth  
23 again herein, the allegations contained in all prior paragraphs of this  
24 complaint.

25 31. Under the ADA, it is an act of discrimination to fail to ensure that the  
26 privileges, advantages, accommodations, facilities, goods and services of any  
27 place of public accommodation is offered on a full and equal basis by anyone  
28 who owns, leases, or operates a place of public accommodation. See 42 U.S.C.

1 § 12182(a). Discrimination is defined, inter alia, as follows:

- 2 a. A failure to make reasonable modifications in policies, practices,  
3 or procedures, when such modifications are necessary to afford  
4 goods, services, facilities, privileges, advantages, or  
5 accommodations to individuals with disabilities, unless the  
6 accommodation would work a fundamental alteration of those  
7 services and facilities. 42 U.S.C. § 12182(b)(2)(A)(ii).
- 8 b. A failure to remove architectural barriers where such removal is  
9 readily achievable. 42 U.S.C. § 12182(b)(2)(A)(iv). Barriers are  
10 defined by reference to the ADA Standards.
- 11 c. A failure to make alterations in such a manner that, to the  
12 maximum extent feasible, the altered portions of the facility are  
13 readily accessible to and usable by individuals with disabilities,  
14 including individuals who use wheelchairs or to ensure that, to the  
15 maximum extent feasible, the path of travel to the altered area and  
16 the bathrooms, telephones, and drinking fountains serving the  
17 altered area, are readily accessible to and usable by individuals  
18 with disabilities. 42 U.S.C. § 12183(a)(2).

19 32. When a business provides paths of travel, it must provide accessible  
20 paths of travel.

21 33. Here, accessible paths of travel have not been provided in conformance  
22 with the ADA Standards.

23 34. When a business provides parking for its customers, it must provide  
24 accessible parking.

25 35. Here, accessible parking has not been provided in conformance with the  
26 ADA Standards.

27 36. When a business provides facilities such as door hardware, it must  
28 provide accessible door hardware.

1 37. Here, accessible door hardware has not been provided in conformance  
2 with the ADA Standards.

3 38. When a business provides facilities such as sales or transaction counters,  
4 it must provide accessible sales or transaction counters.

5 39. Here, accessible transaction counters have not been provided in  
6 conformance with the ADA Standards.

7 40. The Safe Harbor provisions of the 2010 Standards are not applicable  
8 here because the conditions challenged in this lawsuit do not comply with the  
9 1991 Standards.

10 41. A public accommodation must maintain in operable working condition  
11 those features of its facilities and equipment that are required to be readily  
12 accessible to and usable by persons with disabilities. 28 C.F.R. § 36.211(a).

13 42. Here, the failure to ensure that the accessible facilities were available  
14 and ready to be used by the plaintiff is a violation of the law.

15  
16 **II. SECOND CAUSE OF ACTION: VIOLATION OF THE UNRUH CIVIL**  
17 **RIGHTS ACT** (On behalf of Plaintiff and against all Defendants.) (Cal. Civ.  
18 Code § 51-53.)

19 43. Plaintiff repleads and incorporates by reference, as if fully set forth  
20 again herein, the allegations contained in all prior paragraphs of this  
21 complaint. The Unruh Civil Rights Act (“Unruh Act”) guarantees, inter alia,  
22 that persons with disabilities are entitled to full and equal accommodations,  
23 advantages, facilities, privileges, or services in all business establishment of  
24 every kind whatsoever within the jurisdiction of the State of California. Cal.  
25 Civ. Code § 51(b).

26 44. The Unruh Act provides that a violation of the ADA is a violation of the  
27 Unruh Act. Cal. Civ. Code, § 51(f).

28 45. Defendants’ acts and omissions, as herein alleged, have violated the

1 Unruh Act by, inter alia, denying, or aiding, or inciting the denial of, Plaintiff's  
2 rights to full and equal use of the accommodations, advantages, facilities,  
3 privileges, or services offered.

4 46. Because the violation of the Unruh Civil Rights Act resulted in difficulty,  
5 discomfort or embarrassment for the plaintiff, the defendants are also each  
6 responsible for statutory damages, i.e., a civil penalty. (Civ. Code § 55.56(a)-  
7 (c).)

8 47. Although the plaintiff encountered frustration and difficulty by facing  
9 discriminatory barriers, even manifesting itself with minor and fleeting  
10 physical symptoms, the plaintiff does not value this very modest physical  
11 personal injury greater than the amount of the statutory damages.

12  
13 **PRAYER:**

14 Wherefore, Plaintiff prays that this Court award damages and provide  
15 relief as follows:

16 1. For injunctive relief, compelling Defendants to comply with the  
17 Americans with Disabilities Act and the Unruh Civil Rights Act. Note: the  
18 plaintiff is not invoking section 55 of the California Civil Code and is not  
19 seeking injunctive relief under the Disabled Persons Act at all.


20 2. Damages under the Unruh Civil Rights Act, which provides for actual  
21 damages and a statutory minimum of \$4,000 for each offense.

22 3. Reasonable attorney fees, litigation expenses and costs of suit, pursuant  
23 to 42 U.S.C. § 12205; and Cal. Civ. Code §§ 52.



1 Dated: October 28, 2020

CENTER FOR DISABILITY ACCESS

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3 By: 

4 Amanda Seabock, Esq.  
5 Attorney for plaintiff  
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